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**SENATE BILL DRS35167-MRp-69**

Short Title: Rehire High-Need Teachers.

(Public)

Sponsors: Senators Horner, Berger, and Chaudhuri (Primary Sponsors).

### Referred to:

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

## **§ 115C-302.4. High-need retired teachers.**

(a) Definitions. – The following definitions apply in this section:

(1) High-need retired teacher. – A beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who meets both of the following requirements:

a. Retired on or before February 1, 2019, after attaining (i) the age of at least 65 with five years of creditable service, (ii) the age of at least 60 with 25 years of creditable service, or (iii) 30 years of creditable service.

b. Is reemployed by a local school administrative unit to teach at a high-need school.

**High-need school.** – A school that, at any point on or after July 1, 2017, meets one of the following criteria:

b. Secondary Education Act of 1965, as amended.  
Receives an overall school performance grade of D or  
by the State Board of Education pursuant to G.S. 115C-

(3) STEM. – Science, technology, engineering, and mathematics.

Salary Level. – A high-need retired teacher shall be compensated as follows:  
(1) Except as provided in subdivision (2) of this subsection, a high-need retired

(2) teacher shall be paid on the first step of the teacher salary schedule. If a high-need retired teacher serves as a teacher in any of the following licensure areas, he or she shall be paid on the sixth step of the teacher salary schedule:

a. STEM.

b. Special education.

35       (c) No Salary Supplements or Increase in Salary. – A high-need retired teacher shall not  
36 receive any salary supplement or bonus. A high-need retired teacher shall not move beyond the



1 salary steps prescribed by subsection (b) of this section, regardless of the length of time spent as  
2 a high-need retired teacher.

3 (d) Term of Contract. – A contract between the local board of education and a high-need  
4 retired teacher shall be for a term of no more than one school year.

5 (e) Identification of STEM and Special Education Licensure Areas. – The Superintendent  
6 of Public Instruction shall identify and provide to each local school administrative unit a list of  
7 STEM and special education licensure areas that qualify for reemployment pursuant to  
8 subsection (b)(2) of this section. Local school administrative units shall make the list of STEM  
9 and special education licensure areas available to high-need retired teachers."

10 **SECTION 2.(a)** G.S. 135-3(8) is amended by adding a new sub-subdivision to read:

11 "g. Notwithstanding sub-subdivisions c. and d. of this subdivision, the  
12 computation of postretirement earnings of a beneficiary under this  
13 subdivision, who retired on or before February 1, 2019, and who has  
14 been retired at least six months shall not include earnings while the  
15 beneficiary is employed to teach as a high-need retired teacher, as  
16 defined under G.S. 115C-302.4(a)(1). The Department of Public  
17 Instruction shall certify to the Retirement System that a beneficiary is  
18 employed to teach by a local school administrative unit as a high-need  
19 retired teacher, as defined under G.S. 115C-302.4(a)(1).

20 Beneficiaries employed under this sub-subdivision are not entitled  
21 to any benefits otherwise provided under this Chapter as a result of this  
22 period of employment."

23 **SECTION 2.(b)** G.S. 135-3(8)c1. reads as rewritten:

24 "c1. Within 90 days of the end of each month in which a beneficiary is  
25 reemployed under the provisions of sub-subdivision sub-subdivisions  
26 c. and g. of this subdivision, each employer shall provide a report for  
27 that month on each reemployed beneficiary, including the terms of the  
28 reemployment, the date of the reemployment, and the amount of the  
29 monthly compensation. If such a report is not received within the  
30 required 90 days, the Board may assess the employer with a penalty of  
31 ten percent (10%) of the compensation of the unreported reemployed  
32 beneficiaries during the months for which the employer did not report  
33 the reemployed beneficiaries, with a minimum penalty of twenty-five  
34 dollars (\$25.00). If after being assessed a penalty, an employer  
35 provides clear and convincing evidence that the failure to report  
36 resulted from a lack of oversight or some other event beyond the  
37 employer's control and was not a deliberate attempt to omit the  
38 reporting of reemployed beneficiaries, the Board may reduce the  
39 penalty to not less than two percent (2%) of the compensation of the  
40 unreported reemployed beneficiaries during the months for which the  
41 employer failed to report, with a minimum penalty of twenty-five  
42 dollars (\$25.00). Upon receipt by the employer of notice that a penalty  
43 has been assessed under this sub-subdivision, the employer shall remit  
44 the payment of the penalty to the Retirement System, in one lump sum,  
45 no later than 90 days from the date of the notice."

46 **SECTION 3.** G.S. 135-1(10) reads as rewritten:

47 "(10) "Employee" shall mean all full-time employees, agents or officers of the State  
48 of North Carolina or any of its departments, bureaus and institutions other than  
49 educational, whether such employees are elected, appointed or employed:  
50 Provided that the term "employee" shall not include any person who is a  
51 member of the Consolidated Judicial Retirement System, any member of the

1 General Assembly or Assembly, any part-time or temporary employee  
2 employee, or any high-need retired teacher as defined under  
3 G.S. 115C-302.4(a)(1). Notwithstanding any other provision of law,  
4 "employee" shall include all employees of the General Assembly except  
5 participants in the Legislative Intern Program, pages, and beneficiaries in  
6 receipt of a monthly retirement allowance under this Chapter who are  
7 reemployed on a temporary basis. "Employee" also includes any participant  
8 whose employment is interrupted by reason of service in the Uniformed  
9 Services, as that term is defined in section 4303(16) of the Uniformed Services  
10 Employment and Reemployment Rights Act, Public Law 103-353, if that  
11 participant was an employee at the time of the interruption; if the participant  
12 does not return immediately after that service to employment with a covered  
13 employer in this System, then the participant shall be deemed "in service" until  
14 the date on which the participant was first eligible to be separated or released  
15 from his or her involuntary military service. In all cases of doubt, the Board  
16 of Trustees shall determine whether any person is an employee as defined in  
17 this Chapter. "Employee" shall also mean every full-time civilian employee  
18 of the North Carolina National Guard who is employed pursuant to section  
19 709 of Title 32 of the United States Code and paid from federal appropriated  
20 funds, but held by the federal authorities not to be a federal employee:  
21 Provided, however, that the authority or agency paying the salaries of such  
22 employees shall deduct or cause to be deducted from each employee's salary  
23 the employee's contribution in accordance with applicable provisions of  
24 G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement  
25 System; coverage of employees described in this sentence shall commence  
26 upon the first day of the calendar year or fiscal year, whichever is earlier, next  
27 following the date of execution of an agreement between the Secretary of  
28 Defense of the United States and the Adjutant General of the State acting for  
29 the Governor in behalf of the State, but no credit shall be allowed pursuant to  
30 this sentence for any service previously rendered in the above-described  
31 capacity as a civilian employee of the North Carolina National Guard:  
32 Provided, further, that the Adjutant General, in the Adjutant General's  
33 discretion, may terminate the Retirement System coverage of the  
34 above-described North Carolina National Guard employees if a federal  
35 retirement system is established for such employees and the Adjutant General  
36 elects to secure coverage of such employees under such federal retirement  
37 system. Any full-time civilian employee of the North Carolina National Guard  
38 described above who is now or hereafter may become a member of the  
39 Retirement System may secure Retirement System credit for such service as  
40 a North Carolina National Guard civilian employee for the period preceding  
41 the time when such employees became eligible for Retirement System  
42 coverage by paying to the Retirement System an amount equal to that which  
43 would have constituted employee contributions if the employee had been a  
44 member during the years of ineligibility, plus interest. Employees of State  
45 agencies, departments, institutions, boards, and commissions who are  
46 employed in permanent job positions on a recurring basis must work at least  
47 30 hours per week for nine or more months per calendar year in order to be  
48 covered by the provisions of this subdivision.subdivision, except that no  
49 high-need retired teacher as defined under G.S. 115C-302.4(a)(1) shall be  
50 considered an employee. On and after August 1, 2001, a person who is a  
51 nonimmigrant alien and who otherwise meets the requirements of this

1 subdivision shall not be excluded from the definition of "employee" solely  
2 because the person holds a temporary or time-limited visa."

3 **SECTION 4.** G.S. 135-48.40(b)(1a) reads as rewritten:

4 "(1a) All retirees who (i) are employed by an employing unit that elects to be  
5 covered by this subdivision, (ii) do not qualify for coverage under subdivision  
6 (1) of this subsection, and (iii) are determined to be "full-time" by their  
7 employing unit in accordance with section 4980H of the Internal Revenue  
8 Code and the applicable regulations, as ~~amended~~, amended, or are high-need  
9 retired teachers, as defined under G.S. 115C-302.4(a)(1). The employing unit  
10 shall pay the employer premiums for retirees who enroll under this  
11 subdivision."

12 **SECTION 5.** If the Internal Revenue Service determines that the provisions of  
13 G.S. 135-3(8)g. relating to the computation of postretirement earnings of retired teachers  
14 jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina  
15 under the Internal Revenue Code, then this act is repealed 30 days from receipt of that  
16 determination by the State Treasurer. Upon receipt of that determination, the State Treasurer shall  
17 notify the Revisor of Statutes of the determination and the date of receipt. Within one business  
18 day of receipt of the determination, the State Treasurer shall notify all local school administrative  
19 units of the repeal of this act and shall publicly notice the receipt of this information on the  
20 Department of State Treasurer Web site. Within one business day of receipt of the notice from  
21 the State Treasurer, a local school administrative unit shall notify all high-need retired teachers  
22 employed by that local school administrative unit of the repeal of this act.

23 **SECTION 6.** This act becomes effective July 1, 2019, and expires June 30, 2021.